IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.383 OF 2004

Shri Sadanand Sakharam Shiwalkar ..Appellant

Versus

Shri Sundar Gunaji Dalvi & ors. ..Respondents

Mr.B.S.Tangsali i/b S.R.Borulkar for appellant

CORAM : P.V.KAKADE, J.

DATE : 10TH JUNE 2005.

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by Joint District Judge, Ratnagiri dated 10th November, 2003 dismissing the appeal of the appellant and confirming the judgment and order passed by the Civil Judge, Senior Division, Ratnagiri decreeing the suit of the plaintiff for perpetual injunction against the appellant-defendant for causing obstruction to the plaintiff to use the suit

road.

2. I heard the learned counsel for the appellant. Perused the record.

3. It is apparent that the only issue involved in the dispute was the question of existence of the way on Western side of the house in question. The issue was decided by the trial court on the basis of document Sale Deed dated 31.12.1970 at Exh.70 as well as Sale Deed dated 12.8.1977 of the land purchased by the defendant vide Exh.72. The Map drawn by DILR in Mojani Register No.2314 of land Survey No.222 was also on record at Exh.73. On the basis of these documents the existence of suit road was held to be established and suit came to be decreed on that count. The appeal was carried to the District Court, Ratnagiri. The learned Addl. District Court heard both the sides and found that the reasoning adopted and findings recorded by the Trial Court were just, legal and proper and consequently the appeal was dismissed. Hence the present appeal.

4. At the outset it may be noted that the issues involved are purely issues of facts and there is

absolutely no substantial question of law involved in this appeal. Moreover both the courts below have seen to have appreciated the available evidence in proper manner and therefore, there is no case made out for interference in second appeal and as such the appeal stands dismissed.

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